

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                                    |   |                            |
|------------------------------------|---|----------------------------|
| Jesse Graves Yates, III,           | ) | Case No. 4:18-cv-00180-DCC |
|                                    | ) |                            |
| Plaintiff,                         | ) |                            |
|                                    | ) |                            |
| v.                                 | ) | <b>ORDER</b>               |
|                                    | ) |                            |
| Scott Overholt, Michael Davenport, | ) |                            |
| Overholt Law Firm, Davenport Law,  | ) |                            |
|                                    | ) |                            |
| Defendants.                        | ) |                            |
| _____                              | ) |                            |

This matter is before the Court on Plaintiff's Complaint. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation ("Report"). On January 9, 2019, the Magistrate Judge issued a Report recommending that this case be transferred to the United States District Court for the Eastern District of North Carolina. ECF No. 35. Plaintiff was notified of his right to file objections to the Report and the serious consequences if he failed to do so. Plaintiff filed no objections to the Report and the time to do so has lapsed.

**APPLICABLE LAW AND ANALYSIS**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the

Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

The Report recommends that this case be transferred to the Eastern District of North Carolina because venue is improper in the District of South Carolina. The Magistrate Judge notes that Defendants are residents of North Carolina and the events giving rise to Plaintiff’s claim occurred in the Eastern District of North Carolina. After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Magistrate Judge that venue is improper in this District. See 28 U.S.C. § 1391. Plaintiff’s action is **TRANSFERRED** to the United States District Court for the Eastern District of North Carolina.

IT IS SO ORDERED.

s/Donald C. Coggins, Jr.  
United States District Judge

February 14, 2019  
Spartanburg, South Carolina

### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.